

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.622(i)) Docket Number 08-131
Table of Allotments) RM-11463
Digital Television Broadcast Stations)
(Columbus, Ohio))

To: Office of the Secretary
Attn: Chief, Video Services Division

FILED/ACCEPTED
OCT 31 2008
Federal Communications Commission
Office of the Secretary

FURTHER SUPPLEMENT TO PETITION FOR RULEMAKING

WSYX Licensee, Inc. ("WSYX"), licensee of WSYX(TV), channel 6, and WSYX-DT, channel 13, Columbus, Ohio, by the undersigned attorneys, hereby supplements its above-captioned request that the Commission substitute and allot DTV channel 48 for WSYX-DT's assigned DTV channel 13 at Columbus, Ohio, in response to an informal request from Video Division staff.

The proposed WSYX-DT facility on channel 48 will provide significantly better service to viewers in the Columbus Designated Market Area ("DMA") than its currently licensed DTV operations on channel 13. WSYX-DT has been licensed and operating on channel 13, the only VHF digital channel in the Columbus DMA, for *nearly five years*.¹ During that period it has come to realize that operating a VHF digital facility in its market is not a viable option for the long run. The station's real-world experience over this time period has resulted in the licensee's

¹ See FCC File No. BLCDDT-20030801AXM.

conclusion that operating WSYX-DT on channel 48 instead of channel 13 is necessary to provide superior service to the viewing public and would much better serve the public interest.

As shown in the attached Declaration of Rick Ervin, Chief Engineer of WSYX-DT, operation of WSYX-DT on VHF channel 13 has resulted in poor digital service to the viewing public when compared to the digital operations of UHF stations in the DMA. Mr. Ervin's Declaration indicates that the station has received numerous complaints over the years from viewers stating that they are "either unable to receive the WSYX-DT signal at all, or are unable to receive it as well as they can receive the signals of the UHF digital stations in the market." Mr. Ervin also states that "many viewers are able to receive the WTTE-DT UHF channel 36 (which is co-located on the same tower as WSYX-DT channel 13) with a signal strength of 100% while at the same time receive a poor signal strength of approximately 60% of WSYX-DT. In most ATSC Set Top Boxes and television sets a 60% signal strength is marginal and the viewer has significant picture degradation issues, such as picture break-up, freeze frame, tiling, etc." According to Mr. Ervin, this problem is further exacerbated because, as noted, WSYX-DT is the only VHF digital station in the market so, due to greater demand, retailers appear to be focused on stocking and selling primarily UHF-only or UHF-dominant antennas to the public. As a result of the viewer complaints, poor technical quality of the WSYX-DT signal in the DMA, and the problems associated with being the only digital VHF station in the market, WSYX-DT is seeking to serve the viewing public on DTV channel 48 instead of channel 13.

In response to the specific informal request from Video Division staff, provided below is a tabulation of the forty-two (42) post-transition DTV allotments that place a noise-limited service contour within the area between WSYX-DT's predicted 36 dBu coverage on channel 13 and WSYX-DT's predicted 41 dBu coverage on channel 48:

Station	Channel	Location
WDLI-TV	39	Canton, Ohio
WWHO	46	Chillicothe, Ohio
WCPO-TV	10	Cincinnati, Ohio
WKRC-TV	12	Cincinnati, Ohio
WLWT	35	Cincinnati, Ohio
WSTR-TV	33	Cincinnati, Ohio
WEWS-TV	15	Cleveland, Ohio
WJW	8	Cleveland, Ohio
WBNS-TV	21	Columbus, Ohio
WDTN	50	Dayton, Ohio
WHIO-TV	41	Dayton, Ohio
WKEF	51	Dayton, Ohio
WRGT-TV	30	Dayton, Ohio
WLIO	8	Lima, Ohio
WTLW	47	Lima, Ohio
WMFD-TV	12	Mansfield, Ohio
WSFJ-TV	24	Newark, Ohio
WQCW	17	Portsmouth, Ohio
WGGN-TV	42	Sandusky, Ohio
WBDT	26	Springfield, Ohio
WTVG	13	Toledo, Ohio
WTOL	11	Toledo, Ohio
WHIZ-TV	40	Zanesville, Ohio
WCHS-TV	41	Charleston, West Virginia
WLPX-TV	39	Charleston, West Virginia
WVAH-TV	19	Charleston, West Virginia
WOWK-TV	13	Huntington, West Virginia
WSAZ-TV	23	Huntington, West Virginia
WTAP-TV	49	Parkersburg, West Virginia
WTRF-TV	7	Wheeling, West Virginia
WXIX-TV	29	Newport, Kentucky
WEAO	50	Akron, Ohio
WOUB-TV	27	Athens, Ohio
WOUC-TV	35	Cambridge, Ohio
WCET	34	Cincinnati, Ohio
WOSU-TV	38	Columbus, Ohio
WPTD	16	Dayton, Ohio
WPTO	28	Oxford, Ohio
WPBO	43	Portsmouth, Ohio
WKAS	26	Ashland, Kentucky
WCVN-TV	24	Covington, Kentucky
WPBY-TV	34	Huntington, West Virginia

The coverage contours of these stations are plotted on the map in Exhibit 1. As illustrated in the map, the vast majority of the noise-limited service contour within the area between WSYX-DT's predicted 36 dBu coverage on channel 13 and WSYX-DT's predicted 41 dBu coverage on channel 48 will receive five or more full-power off-air post-transition digital services.² The coverage map also shows that operation of WSYX-DT on Digital Channel 48 will serve approximately the same area as the other stations licensed to the Columbus DMA. Indeed, WSYX should not be penalized because of the Commission's initial decision to allocate a VHF channel to WSYX-DT, but not to other Columbus stations which results in theoretical – but not actual – service to a somewhat greater area than its competitors. Consequently, the WSYX proposal should be granted by the Video Division.³

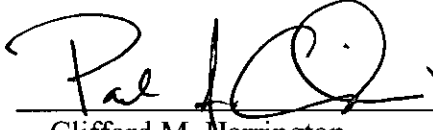
² The "loss area" population totals with respect to the proposal, are as follows: Total population within the channel 13 - 36 dBu coverage contour = 3,087,393; Total population within the channel 13 - 36 dBu contour inside the Columbus DMA = 2,056,280; Total population within the total loss area = 633,652; Total population within the loss area only within the Columbus DMA = 86,908; Total population within the channel 48 - 41 dBu coverage contour = 2,453,691; Total population within the channel 48 - 41 dBu contour inside the Columbus DMA = 1,969,372.

³ Indeed, the Commission has granted service area changes even in circumstances where white and gray service areas were created – which is not the case here. See, e.g., *Decatur Telecasting, Inc.*, 7 FCC Rcd 8622 (1992).

Accordingly, based on the foregoing, and for the reasons provided in its original Petition and Supplement, WSYX respectfully requests that the Video Division adopt the proposed changes to the DTV Table of Allotments.

Respectfully submitted,

WSYX Licensee, Inc.

By: 
Clifford M. Harrington
Paul A. Cicelski

Its Attorneys

PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128
(202) 663-8000

Dated: October 31, 2008

DECLARATION

I, Rick Ervin, do hereby declare under penalty of perjury that the following is true and correct to the best of my personal knowledge and belief:

1. I am Chief Engineer of WSYX(TV) and WSYX-DT, Columbus, Ohio.
2. WSYX-DT, Channel 13, is the only VHF DTV station in the Columbus Designated Market Area ("DMA").
3. I believe that the Commission should substitute and allot DTV channel 48 for WSYX-DT's assigned DTV channel 13 at Columbus, Ohio in order to improve digital television service to viewers in the market.
4. As the chief engineer of WSYX-DT I have observed the following issues in regards to numerous viewer telephone complaints by phone and email concerning DTV reception of WSYX-DT during the last several months:
 - The complaints from viewers have indicated that they are either unable to receive the WSYX-DT signal at all, or are unable to receive it as well as they can receive the signals of the UHF digital stations in the market.
 - The majority of the viewers that I have spoken with have been sold DTV receive antennas that are either (i) UHF-only antennas; (ii) UHF/VHF antennas which have poor performance characteristics related to the VHF performance; and (iii) antenna systems that have UHF-only pre-amplifiers.
 - Viewers are regularly confused by the difference of VHF and UHF and regularly ask why WSYX-DT is the only VHF DTV station in the market.
 - Many viewers are able to receive the WTTE-DT UHF channel 36 (which is co-located on the same tower as WSYX-DT 13) with a signal strength of 100% while at the same time receive a poor signal strength of approximately 60% of WSYX-DT. In most ATSC Set Top Boxes and television sets, a 60% signal strength is marginal and the viewer has significant picture degradation issues, such as picture break-up, freeze frame, tiling, etc.
 - The majority of viewers that have contacted the station regarding interference concerns do not have technical backgrounds and with retailers in the Columbus, Ohio DMA selling primarily UHF-based equipment to viewers. As a result, they are having great difficulty receiving WSYX-DT's programming, including the station's local news and public safety information.


Rick Ervin

Dated: 10/31/08

DECLARATION OF JOHN E. HIDLE, P.E.

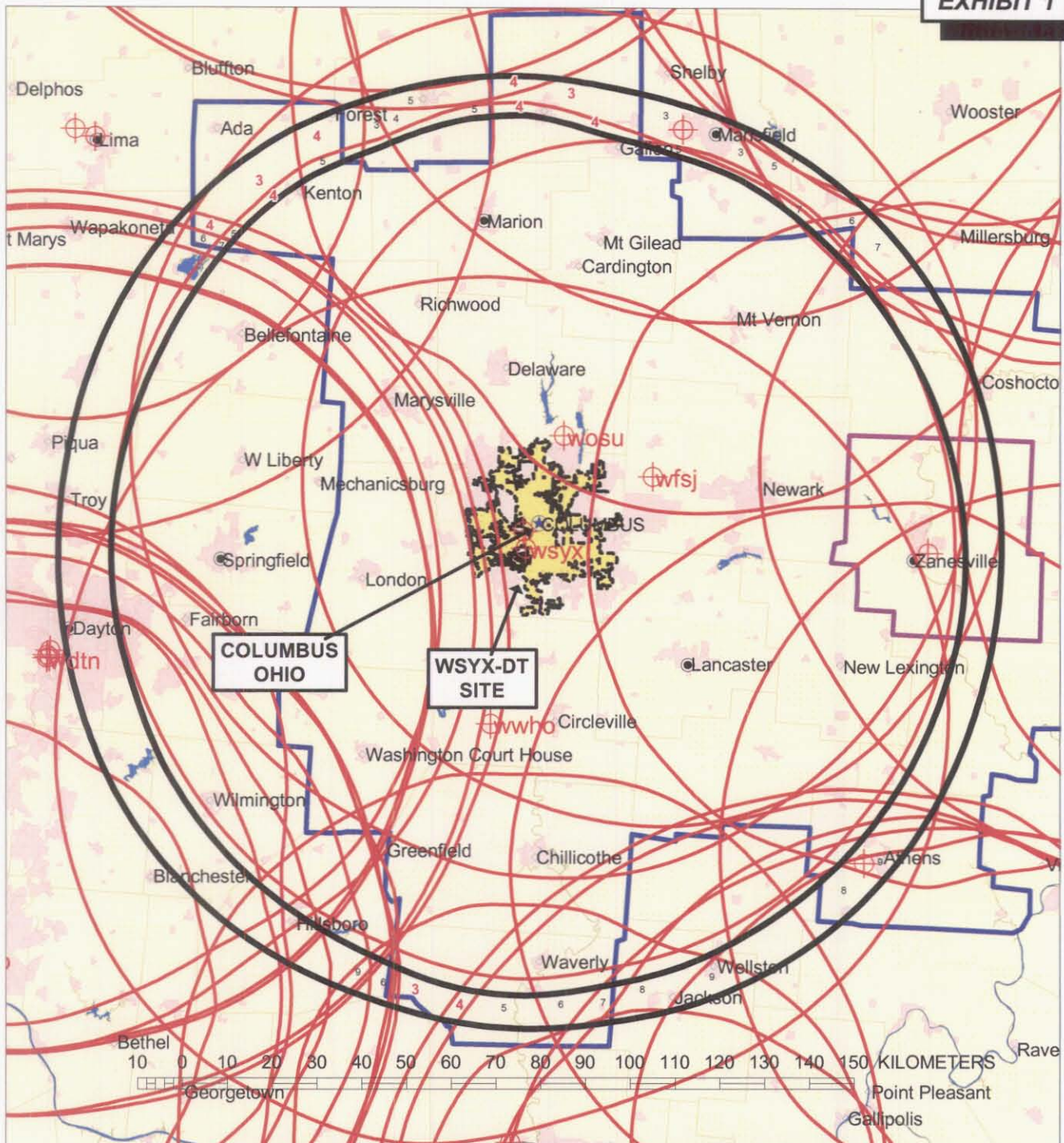
1. I am a Consulting Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. I hold a Masters Degree in Electrical Engineering from the Georgia Institute of Technology, I have more than forty years experience in broadcast engineering and consulting. I am a Professional Engineer in the Commonwealth of Virginia, License No. 7418, and in the State of New York, License No. 63418.
2. I prepared Exhibit 1 showing the predicted service contours of the licensed WSYX-DT facility on channel 13, the proposed WSYX-DT facility on channel 48, and the predicted service contours of the forty-two post-transition DTV facilities that overlap some part of the predicted "loss-area" between the two predicted WSYX-DT service contours. I derived the list of forty-two stations and determined the population figures for the various sub-areas within the predicted "loss-area".
3. It is my belief that the proposed substitution of channel 48 for channel 13 in Columbus, Ohio, thereby making it an all-UHF television market, would better serve the potential TV viewers in that Designated Market Area.
4. I have reviewed the Further Supplement and its attachments.

Dated: October 31, 2008


John E. Hidle, P.E.



EXHIBIT 1



PREDICTED COVERAGE CONTOURS

**WSYX-DT, COLUMBUS, OHIO
COVERAGE COMPARISON**

**LOSS AREA IS THE RING BETWEEN
THE 36 DBU AND 41 DBU CONTOURS**

**42 Post Transition Facilities
Serving Loss Area**

NOISE LIMITED COVERAGE

**PREDICTED 41 dBu F(50,90)
CH. 48 - 1000 kW SERVICE CONTOUR**

**PREDICTED 36 dBu F(50,90)
SERVICE CONTOUR
CH. 13 - 59 kW - 286 m HAAT**

Zanesville DMA

Columbus DMA

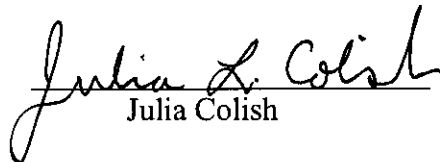
**OCTOBER 2008
CARL T. JONES
CORPORATION**

CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "Further Supplement to Petition for Rulemaking" was served via hand delivery on this 31st day of October 2008 to the following:

Ms. Barbara A. Kreisman
Chief, Video Services Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A666
Washington, D.C. 20554

Mr. David Brown
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 2-C828
Washington, D.C. 20554


Julia Colish